

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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MARY C. ENGEL, NO. CIV. S 03-2403 MCE KJM  
Plaintiff,  
v. ORDER  
MICHAEL BARRY, et al.,  
Defendants.

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The Court has reviewed Defendants' Ex Parte Application to Continue the Hearing on Plaintiffs' Motion for Summary Judgment, presently set for August 22, 2005, along with Plaintiff's opposition thereto. Defendant's request for continuance is premised on the provisions of Federal Rule of Civil Procedure 56(f), which permit the Court to continue a summary judgment hearing if the opposing party demonstrates that additional discovery is necessary to properly oppose the motion. The Declaration of Jonathan B. Paul submitted in support of Defendants' application indicates that a continuance is necessary

1 to permit the depositions of Plaintiff and her family, as  
2 percipient witnesses to the incident underlying this lawsuit, to  
3 take place. Mr. Paul states in that declaration that he believes  
4 those depositions will provide support for Defendants' opposition  
5 to Plaintiff's Motion for Summary Judgment. Inasmuch as the  
6 discovery deadline in this case does not expire until November  
7 11, 2005, Defendants have ample time to obtain additional  
8 depositions on a timely basis.

9 Because Defendants have shown good cause for continuing  
10 Plaintiff's Motion for Summary Judgment pursuant to Rule 56(f),  
11 their ex parte request to continue the August 22, 2005 hearing is  
12 GRANTED. The Motion is continued to November 14, 2005 at 9:00  
13 a.m.

14 The Court notes that Plaintiff's opposition to the instant  
15 ex parte application also purports to contain a request that  
16 certain deposition subpoenas be quashed. Any such motion to  
17 quash must be scheduled before the assigned magistrate judge  
18 pursuant to Local Rule 72-302(c)(1), and will accordingly not be  
19 considered by this Court.

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21 IT IS SO ORDERED.

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23 DATED: August 8, 2005

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MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE